



# PAPER C

Purpose: For Decision

## Committee report

Committee	<b>ANNUAL COUNCIL</b>
Date	<b>15 MAY 2013</b>
Title	<b>APPOINTMENTS, COMMITTEE STRUCTURE AND CONSTITUTIONAL ISSUES</b>
Report of	<b>DEPUTY DIRECTOR OF RESOURCES (CORPORATE GOVERNANCE) AND MONITORING OFFICER</b>

### EXECUTIVE SUMMARY

1. This report sets out a number of actions required at the annual council following elections in accordance with national legislation and the constitution. Any changes arising as the result of the elections will sent in advance of the meeting or tabled at the meeting.

### BACKGROUND

2. In accordance with the constitution full council is required to :
  - (a) *Elect a person to preside if the chairman of the council is not present;*
  - (b) *Elect the chairman of the council;*
  - (c) *Elect the vice chairman of the council*
  - (d) *Approve the minutes of the last meeting.*
  - (e) *Receive any declarations of interest from members.*
  - (f) *Receive any announcements from the chairman and/or head of paid service.*
  - (g) *Elect the Leader (first annual meeting immediately following the elections only)*
  - (h) Appoint at least one scrutiny committee and other such committees as the council considers appropriate.
  - (i) Decide upon the size and terms of reference for those committees.
  - (j) To appoint the chairman of the scrutiny committee and the chairman vice chairman of any other committees of sub committees appointed by council.
  - (k) Receive nominations of councillors to serve on outside bodies that are required to be re-appointed by the council (if any).
  - (l) Re-affirm the scheme of delegation
  - (m) *Approve a programme of ordinary meetings of the council for the year; and*
  - (n) *Consider any business set out in the notice convening the meeting.*

3. Items (a) to (g) and (m) and (o) above (in italics) are dealt with elsewhere on the agenda for this annual meeting. This report covers items (h) to (l)

## THE COMMITTEE STRUCTURE

4. In accordance with various legislative requirements the council is currently required to appoint ;
  - (a) A Cabinet of the leader and no more than nine other members
  - (b) At least one Overview and Scrutiny Committee
  - (c) One or more committees of the council to deal with the regulatory functions (ie planning and licensing)
5. The Council's current committee structure is set out in appendix D.
6. Dealing with these in turn :-

### Cabinet

7. Currently under the constitution it is for the Leader of the Council to appoint the cabinet.
8. However there are other options where the Cabinet Members can be appointed by:
  - (a) Cabinet members to be appointed by Full Council
  - (b) Cabinet members appointed by majority group.
9. If Council wishes to change how the cabinet are appointed then this can be achieved by the Council agreeing to change the constitution to this effect.

### Overview and Scrutiny

10. While the cabinet undertakes the significant executive business of the council, the overview and scrutiny committee arrangements have an important role in scrutinising the decisions and assisting in policy development. The legislation states that there must be at least one overview and scrutiny committee. The council is free to determine any arrangements, as it sees fit, to discharge this function taking into account the resources available.
11. The current arrangements for the overview and scrutiny function are :-
  - (a) An overview and scrutiny committee of 10 members. The Chairman to be a member who is not from the majority political group.
  - (b) Three scrutiny panels. These comprise seven members with provision for statutory voting co-opted representatives on the panel dealing with education matters. The panels are :-
    - (i) Children and Young People scrutiny panel;
    - (ii) Economy and Environment scrutiny panel;
    - (iii) Health and Community Wellbeing scrutiny panel.

12. It is not proposed to make any changes to the arrangements connected with the overview and scrutiny committee, children and young people scrutiny panel or the economy and environment scrutiny panel.
13. With regard to the health and community wellbeing scrutiny panel there is a need to look at two issues.
14. Part of the remit of the health and community wellbeing scrutiny panel involved it undertaking the statutory requirement for the health scrutiny function. The Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013 has changed the requirements in respect of the health scrutiny function. Rather than the requirement to have a specific health scrutiny committee/panel full council is required to arrange for the discharge of health scrutiny functions through an overview and scrutiny committee which does not necessarily have to be solely related to health. In addition to this full council has to decide whether the power to refer concerns about major service changes to the Secretary of State should be delegated to the relevant committee/panel dealing with the health scrutiny function or whether it wishes to retain this.
15. The second matter relates to membership of the panel by a non voting co-opted representative of Local Healthwatch. Previously the panel enabled a representative of the Local Involvement Network (LINK) to have a seat as a non voting co-opted member. Due to national changes brought in by the Health and Social Care Act 2012 LINK has been replaced by Healthwatch.
16. A revised terms of reference taking into account these matters is shown in appendix A.

#### Audit Committee

17. To reflect best practice and implement recommendations arising from an internal audit review of the work of the committee changes are proposed to its terms of reference. These were considered by the Audit Committee on 13 December 2012 and a recommendation made to amend the terms of reference. The proposed terms of reference is attached as appendix B.

#### Other Committees

18. There are no changes proposed to the Isle of Wight Pension Fund Committee, Regulatory Committee or Employment Committee.

#### Political proportionality

19. Following the elections on 2 May 2013 various political groups will be established in accordance with the legislative requirements.
20. Once council has agreed the committee structure and the size of the various committees then seats on those will, in accordance with the delegated powers given to the Deputy Director of Resources (Corporate Governance) and Monitoring Officer, be filled on a politically proportionate basis in accordance

with the wishes of the group leaders. Group leaders will be advised of the numbers as soon as the calculations have been completed.

21. Council may disapply the rules of proportionality across all the committees if it so wishes. If this is the case this can only be carried out if no member votes against it in respect of each individual committee.

#### Appointment of chairmen and vice chairmen

22. It is for council to approve the chairmen of committees. Included at appendix C is a list of the available positions of the current committees mentioned above. All committees and panels can appoint their own vice chairman unless the council so chooses to appoint a vice chairman.

#### Nominations to outside bodies

23. A review of outside bodies to which the council appoints representatives was undertaken in 2010. This resulted in a framework being agreed by full council on 21 April 2010. As the result of this a list is maintained to which appointments are to be made.
24. As part of the framework all members are consulted on the vacancies and these are then filled by the Corporate Governance Manager in consultation with the relevant cabinet member. Attached at appendix D is the current list of outside bodies to which the council appoints.
25. The only appointment that needs to be made by full council is to the Police and Crime Panel. In addition to agreeing to the council's Appointed Member to the Panel it will also be necessary to identify a member to act as a "Deputy Member" where the Appointed Member is temporarily unable to attend a meeting or panel business.
26. All other appointments will be dealt with by members being advised of each of these so that nominations can be submitted and dealt with in accordance with the constitution.

#### Scheme of delegation

27. The council is asked to affirm the scheme of delegation of powers (to both cabinet members and officers) as set out in appendix E. This will replace the current pages which require amendment following restructuring of the council. Further amendments will be required arising from any further restructuring together with finalisation of the strategic partnership arrangements with Hampshire County Council.

#### Code of Conduct

28. Full council on 20 June 2012 approved a replacement code of conduct, compliant process and dispensation arrangements. This was due to changes brought about by the Localism Act 2011. Members may request a dispensation from complying with the need to withdraw from making a

decision where they have an interest, in certain limited circumstances. This is of particular relevance in planning issues.

29. Since that time revised guidance has been issued by the Department for communities and Local Government. This requires the council to amend part of the code of conduct and process for granting dispensations. Appendix G reflects the changes arising from this. It also amends the wording of the seven principles of public life so that this accord with the revised wording contained in the 14<sup>th</sup> report of the Committee on Standards in Public Life.
30. The council agreed to delegate the responsibility for dealing with requests for dispensations to the Appeal Sub Committee. It may be more cost effective if the Monitoring Officer has delegated powers, in consultation with a Designated Independent Person, to deal with requests for dispensation without the need for a meeting of the Appeals sub Committee where this is deemed to be appropriate. Designated Independent Persons are required to be appointed to be consulted by the Monitoring Officer when it is proposed that a complaint against a member in relation to an alleged breach of the Code of Conduct is to be investigated.

### STRATEGIC CONTEXT

31. Good governance arrangements are essential to the delivery of the council's services and the decision making process that supports this.

### CONSULTATION

32. The proposals contained within this report will be shared with group leaders and any changes arising as the result of this will be reported orally at the meeting.

### FINANCIAL / BUDGET IMPLICATIONS

33. There are no additional costs associated with the proposals contained in this report. The recommendations accord with the resources available within the overall budget agreed by full council in February 2013.
34. Under the members allowance scheme (as set out in the constitution) a number of council appointments are entitled to receive a special responsibility allowance (SRA) in recognition of undertaking a role. The council is free to determine if any of the posts should have a SRA but any changes outside of the existing scheme will need to be on the basis that they are subject to consideration by the Independent Remuneration Panel, a panel of independent external people appointed by the Council who make recommendations on members' remuneration. Any expenditure on members' allowances must be met from within the existing budget.
35. If council wish to agree to additional meetings or change the committee structure or limit existing delegations to officers significantly, the resource implications will have to be assessed to be taken into account before any final decision on implementation can be taken.

## LEGAL IMPLICATIONS

36. All the above are requirements specified within the council's constitution and the Local Government Act 2000 and subsequent legislation.

## EQUALITY AND DIVERSITY

37. The rules around political proportionality ensure that the council's decision making structure reflects the make up of the democratically elected representative of the Island's voting population.

## OPTIONS

38. Overview and scrutiny – health scrutiny function

- (a) To approve the delegation of the health scrutiny function to the health and community wellbeing scrutiny panel with the power to refer matters to the secretary of state.
- (b) To approve the delegation of the health scrutiny function to the health and community wellbeing scrutiny panel but with full council retaining the power to refer matters to the secretary of state.
- (c) To approve the delegation of the health scrutiny function to one of the other scrutiny committee/panels with or without the power of referral.
- (d) To establish a separate health scrutiny panel delegated to deal with the health scrutiny function and with the power to refer matters to the secretary of state.

39. Health scrutiny – local healthwatch representative

- (a) To include one non voting co-opted representative on the relevant panel/committee delegated with discharging the health scrutiny function.
- (b) No co-opted position be made available on the relevant panel/committee delegated with discharging the health scrutiny function.

40. Audit Committee – revised terms of reference

- (a) To approve the revised terms of reference for the Audit Committee
- (b) Not to approve the revised terms of reference.
- (c) To approve, with amendments, a revised terms of reference.

41. Political proportionality

- (a) To approve the committee structure and size of the various committees and that the seats be filled in accordance with the wishes of the group

leaders and in accordance with the delegated powers given to the Deputy Director of Resources (Corporate Governance) and Monitoring Officer.

- (b) To approve an amended committee structure and size of the various committees and that the seats be filled in accordance with the wishes of the group leaders and in accordance with the delegated powers given to the Deputy Director of Resources (Corporate Governance) and Monitoring Officer.

42. Appointment of chairman and vice chairman

- (a) To appoint the chairmen, and where required, vice chairmen to the positions contained in appendix C.
- (b) Not to appoint to these positions would create difficulties in the calling of meetings.

43. Nominations to outside bodies

- (a) To appoint a member as the Council's Appointed Member to the Police and Crime Panel together with a member to act as "Deputy Member".
- (b) Not to appoint to the Police and Crime Panel at this stage.

44. Scheme of delegation

- (a) To agree the scheme of delegation.
- (b) To agree an amended scheme of delegation.

45. Code of Conduct

- (a) To approve the new code of conduct.
- (b) To approve the new code of conduct but with amendments.

46. Dispensations

- (a) To authorise the Monitoring Officer, in consultation with a Designated Independent Person, to deal with requests for dispensations rather than these being submitted to an Appeals Sub Committee where it is appropriate to do so.
- (b) All requests for dispensations be dealt with by the Appeals Sub Committee.

RISK MANAGEMENT

47. All the recommendations are to ensure that the Council meets its corporate governance requirements and responds to changing requirements and

demands. These should lessen the risks arising from any challenge to the decision making process by way of judicial review or other such legal action.

## EVALUATION

48. The majority of the recommendations are required under the council's constitution. However an effective governance system for the council is essential to enable business to be transacted openly and in a timely manner. The appointment of the various committees and the implementation of the supporting processes seeks to do this.

## RECOMMENDATION

49. That council considers the options available on each issue and approves the necessary action to implement these where appropriate.

## APPENDICES ATTACHED

50. [Appendix A](#) – Terms of reference for the health and community wellbeing scrutiny panel
51. [Appendix B](#) – Revised terms of reference for the audit committee
52. [Appendix C](#) – List of council committees, sizes and chairman
53. [Appendix D](#) – List of outside bodies
54. [Appendix E](#) – Revised delegations and functions.
55. [Appendix F](#) – Revised code of conduct.

## BACKGROUND PAPERS

56. Agenda and minutes of annual council -16 May 2012 and 20 June 2012; <http://www.iwight.com/Meetings/current/allMinutes.aspx?cmteId=137&yr=12>
57. Agenda and minutes of Audit Committee – 13 December 2012; <http://www.iwight.com/Meetings/current/committeeDetail.aspx?cmteId=143>
58. Agenda and minutes of full Council – 21 April 2010; <http://www.iwight.com/Meetings/current/allMinutes.aspx?cmteId=137&yr=10>
59. The Local Authority (Public Health, Health and Wellbeing Boards and Health Scrutiny) Regulations 2013; <http://www.legislation.gov.uk/uksi/2013/218/contents/made>
60. Openness and Transparency on Personal Interests – A Guide for Councillors – Department for Communities and Local Government – March 2013; [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/153759/Openness\\_and\\_transparency\\_on\\_personal\\_interest\\_-\\_a\\_guide\\_for\\_councillors.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/153759/Openness_and_transparency_on_personal_interest_-_a_guide_for_councillors.pdf)

61. 14<sup>th</sup> Report of the Committee on Standards in Public Life; [http://www.public-standards.gov.uk/wp-content/uploads/2013/01/Standards\\_Matter.pdf](http://www.public-standards.gov.uk/wp-content/uploads/2013/01/Standards_Matter.pdf)
62. Isle of Wight Council Constitution; <http://www.iwight.com/Council/how-it-works/Democratic-Services/Constitution1>

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